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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**BRADLEY B. HEISMAN and
JULIA MATONTI,**

Plaintiffs,

-against-

WYNDHAM VACATION RESORTS, INC.,

Defendant.

Civil Action No.: 2:20-cv-11480

REPLY TO COUNTERCLAIM

Plaintiffs, Bradley B. Heisman and Julia Matonti (“Plaintiffs”), by and through undersigned counsel, reply to the Counterclaim of Defendant, Wyndham Vacation Resorts Inc. (“Defendant”) as follows:

AS TO COUNT ONE
(Breach of Contract)

1. Plaintiffs admit, through fraudulent inducement, Plaintiffs entered into the Contract and respectfully refer the Court to the Contract for the terms and conditions thereof.
2. Plaintiffs admit, through fraudulent inducement, Plaintiffs entered into the Contract on or about May 17, 2019.
3. Plaintiffs deny the allegations set forth in Paragraph 3 of the Counterclaim and specifically state that Plaintiffs continued to make payments payable to the order of the Defendant and delivered same to Plaintiffs’ counsel to be held in escrow pending the outcome of this matter.
4. Plaintiffs deny each and every allegation set forth in Paragraph 4 of the Counterclaim.

5. Plaintiffs deny each and every allegation set forth in Paragraph 5 of the Counterclaim.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

The Counterclaim fails to state a cause of action against the Plaintiffs upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

Defendants breached the contract that is the subject matter of this action, thereby excusing Plaintiffs continued performance and as such Defendant is not entitled to the damages it seeks.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

If the Defendant suffered damages, the same were caused by Defendant's own conduct.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

The Contract is unenforceable as a contract of adhesion.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

The Contract is unenforceable as it is a product of fraud in the inducement.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

Plaintiffs will rely upon any and all other, further and/or different defenses which become available or are discovered during the pendency of this action and hereby specifically reserve the right to amend their Reply to Counterclaim for the purposes of asserting any such additional affirmative defenses.

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Dated: May 19, 2021

/s/ Wolfgang Heimerl
Wolfgang Heimerl, Esq.